

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

RICHARD L. MITCHELL,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, *et al.*,

Defendants.

Case No. 2:18-cv-00646-RFB-EJY

ORDER

Before the Court for consideration is the Report and Recommendation [ECF No. 23] of the Honorable Elayna J. Youchah, United States Magistrate Judge, entered March 3, 2021.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). A party may file specific written objections to the findings and recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Local Rule IB 3-2(a). When written objections have been filed, the district court is required to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); see also Local Rule IB 3-2(b). Where a party fails to object, however, a district court is not required to conduct “any review,” de novo or otherwise, of the report and recommendations of a magistrate judge. Thomas v. Arn, 474 U.S. 140, 149 (1985). Pursuant to Local Rule IB 3-2(a), objections were due

1 by March 17, 2021. No objections have been filed. The Court has reviewed the record in this case
2 and concurs with the Magistrate Judge's recommendations.

3
4 **IT IS THEREFORE ORDERED** that the Report and Recommendation [ECF No. 23] is
5 ACCEPTED and ADOPTED in full.

6 **IT IS FURTHER ORDERED** that Plaintiff's claims against the State of Nevada, claims
7 for money damages against LVMPD Officers Stephen and Garcia in their official capacities
8 is DISMISSED with prejudice.

9 **IT IS FURTHER ORDERED** that Plaintiff's claims against the Las Vegas Metropolitan
10 Police Department, Fourth Amendment excessive force claim against LVMPD Officer Stephen,
11 and Fourteenth Amendment equal protection claims against LVMPD Officers Stephen and Garcia
12 in their individual capacities is DISMISSED without prejudice, with leave to amend.

13 **IT IS FURTHER ORDERED** that Plaintiff is given one, and only one, final opportunity
14 to file a second amended complaint correcting the above deficiencies within thirty (30) court days
15 from the date this Report and Recommendation is accepted and adopted, with the following
16 **admonishment:** Plaintiff is advised that if he files a second amended complaint, his Amended
17 Complaint no longer serves any function in this case. As such, the second amended complaint must
18 be complete in and of itself without reference to prior pleadings or other documents. The Court
19 cannot refer to a prior pleading or other documents to make Plaintiff's second amended complaint
20 complete.

21 **IT IS FURTHER ORDERED** that if Plaintiff fails to comply with this recommendation's
22 the Court will dismiss this case with prejudice.

23 DATED: May 11, 2021.

24
25 
26 **RICHARD F. BOULWARE, II**
27 **United States District Judge**
28